

## **REMARKS**

### **Status of the Claims**

Claims 13-16, 19 and 22-57 are now present in this application. Claims 1-12 have been cancelled without prejudice or disclaimer of the subject matter contained therein. Claims 13-16 and 24-49 stand withdrawn as being drawn to non-elected inventions. Claims 13-15, 19, 24, 26-29, 36, 37, 41, and 44-48 are independent. Claims 17, 18, 20 and 21 were cancelled previously.

Claims 19 and 23 have been amended without prejudice or disclaimer of the subject matter contained therein. New claims 50-57 were added. Support for new claims 50-57 can at least be found at page 48, line 21 to page 50, line 20; Figure 6; and Example 6 of the present Specification. Reconsideration of this application, as amended, is respectfully requested.

### **Priority under 35 U.S.C. § 119**

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

### **Rejection under 35 U.S.C. § 102**

Claims 19, 22 and 23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Kanda et al., U.S. Patent Application Publication No. 2004/0110282 (hereinafter "Kanda"). This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action. At page 5 of the Office Action it is stated that "[t]he Examiner may see the issue [of patentability over Kanda] differently if the gene disruption were based on SEQ ID NO: 1, that is, if Applicants had disrupted SEQ ID NO: 1 at specific nucleotides, for example, and claimed it. This would not be considered to be anticipated or obvious over Kanda [sic] et al. because without the sequence in hand Kanda [sic] et al. cannot teach or render obvious were [sic] in the fucose transport gene to insert disruptive nucleotides."

Although Applicants respectfully disagree that Kanda anticipates the claimed invention, in order to expedite prosecution of the present application, Applicants have amended claim 19, in view of the Examiner's suggestions at page 5, to recite isolated Chinese hamster cells wherein one or more exons of the genomic Chinese hamster fucose transporter gene having the sequence of SEQ ID NO: 1 are disrupted.

One of ordinary skill in the art would recognize that Kanda merely lists a number of conventional gene suppression methods. Kanda does not disclose nor suggest a concrete method of disrupting the genomic Chinese hamster fucose transporter gene. Furthermore, a person skilled in the art could determine whether a fucose transporter gene is present in a genome by preparing cDNA from cells containing the genome and detecting fucose transporter cDNA. However, this detection in and of itself would not provide a person skilled in the art with the complete sequence of the fucose transporter cDNA or the complete sequence of the fucose transporter gene (including both introns and exons) in the genome. Thus, one of ordinary skill in the art could not construct a targeting vector to disrupt the genomic fucose transporter gene without first being in possession of concrete sequence information for the genomic fucose transporter gene (*e.g.*, SEQ ID NO: 1). Thus, Kanda only teaches that a fucose transporter gene is present in the genome and not the complete sequence (coding and non-coding) of the genomic fucose transporter gene. This is not sufficient information for one of skill in the art to produce the cell of the claimed invention. Thus, the claimed inventions are neither anticipated by nor obvious over Kanda. In view of the foregoing discussion, Applicants respectfully request that the rejection of claims 19, 22 and 23 as being anticipated by Kanda be withdrawn.

#### **Provisional Obviousness-Type Double Patenting Rejection**

Claims 19, 22 and 23 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of copending Application No. 11/793,649.

After amendment, claims 19, 22 and 23 have been further distinguished over claims 1-3 of copending Application No. 11/793,649. Accordingly, Applicants respectfully request that the provisional rejection under obviousness-type double patenting be withdrawn.

If the obviousness-type double patenting rejection (based on co-pending Application No. 11/793,649) becomes the only remaining issue, the Examiner is requested to contact the undersigned regarding the possibility of filing a terminal disclaimer.

CONCLUSION

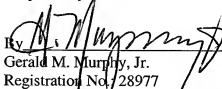
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there be an outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Stephanie A. Wardwell, Ph.D., Registration No. 48,025 at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: MAY 07 2010

Respectfully submitted,

  
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